

### **REMARKS**

Claims 1-12 are pending in the application. Claims 1, 3, 4, 7, 8, and 9 are currently amended. Claim 12 is new.

#### **I. New Claims**

Claim 12 has been added to more fully claim the invention as disclosed in the present Application.

#### **II. Claim Objections**

Claim 8 stands objected to because of the following informalities: “configuration information” is recited twice within the claim. The claim has been amended to delete the second recitation of “configuration information.”

#### **III. Claim Rejections Under 35 U.S.C. 112, Second Paragraph**

Claim 1 stands rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully traverses.

Applicant has amended Claim 1 to more clearly state that two messages are sent to the mobile phone, one to configure the mobile phone, and a second to provide the address of a home page.

Claim 1 now particularly points out and distinctly claims at least one embodiment of the invention as disclosed in the present Application. Therefore, Applicant respectfully requests that the rejections of Claim 1 under 35 U.S.C. 112, Second Paragraph, be withdrawn.

**IV. Claim Rejections Under 35 U.S.C. 102(e)**

Claims 4, 5, 10, and 11 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. Pub. No. 2001/0012281 to Hall ("Hall".) Applicant respectfully traverses.

Independent Claim 4, as amended, is a method. A first web page is displayed on a mobile phone, the first web page displaying the mobile phone's configuration information, the first web page being adapted for display on a mobile phone. At least one change to the mobile phone's configuration information is selected using the mobile phone for transfer to the mobile phone. The selected changes to the mobile phone's configuration information are transmitted to the mobile phone, and the mobile phone's configuration is updated with the changes. The change to the mobile phone's configuration information may be displayed on a computer using a second web page adapted for display on a computer.

Independent Claim 5 recites a system that allows a user to modify a home page associated with a mobile phone. The system includes an image of the mobile phone and configuration information pertaining to the mobile phone presentable at said home page. The mobile phone has a display for indicating configuration information associated with the mobile phone and an input device for changing the configuration information. When the configuration information is changed on the mobile phone by a mobile phone user, the configuration information pertaining to said home page is correspondingly changed.

Hall discloses a method and system whereby a mobile phone user can select one or more service preferences for the mobile phone from a simulated mobile phone display on an Internet web page. The user can access the web page from a personal or business computer. Once the selection has been made, the user can save the preferences to a server in the mobile phone network. The server contains (or provides links to) the full complement of services that are available for selection. The selected services' applications are downloaded from the server to the mobile phone either immediately or the next time the phone is turned on.

With respect to Claim 4, Hall does not disclose display of a web page on a mobile phone, nor does Hall disclose selecting a change to a mobile phone's configuration be transferred to the mobile phone using a web page displayed on the mobile phone itself. With respect to both

Claims 4 and 5, Hall does not disclose a web page displaying a mobile phone's configuration information which reflects changes to the phone's configuration where such changes were initiated on the phone itself.

Rather, at most, Hall discloses in paragraph [0016] that "applications that are already displayed on the mobile phone also appear on the virtual display" and in paragraph [0021] that "application can be fetched from the server ... in real-time." Configuration data displayed on the web page in Hall is apparently the user's service profile stored on a server "associated" with a mobile phone network. See, e.g. Hall, Claim 1. The only reference in Hall to updating a user's service profile, however, is through a user's web page. Hall, para. [0017].

Even though the web site disclosed in Hall includes a representation of the mobile phone and its configuration information, it is not inherent that any changes made on the phone directly would also be synchronized on the web site. Hall does not explicitly or inherently disclose that such synchronization occurs when an application is fetched in real-time (Hall, para. [0021]), nor is any mechanism disclosed that clearly provides such synchronization.

The Court of Appeals for the Federal Circuit has consistently held that "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick, 221 USPQ 481, 485 (Fed. Cir. 1984). Hall clearly fails to teach or suggest elements positively recited and claimed in independent Claims 4 and 5, as amended. Therefore, Applicant respectfully requests that the rejections of Claims 4 and 5 under 35 U.S.C. 102(e) be withdrawn.

#### **IV. Claim Rejections Under 35 U.S.C. 103(a)**

Claims 1, 2, 3, and 9 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,295,291 to Larkins ("Larkins"), in view of U.S. Pat. Pub. No. 2002/0107002 to Duncan ("Duncan"). Applicant respectfully traverses.

Independent Claim 1, as amended, is a method of activating a mobile phone. Information associated with the mobile phone and preferences of a user associated with the mobile phone are collected. A personal home page for the user that is accessible by a computing device and by the mobile phone is prepared using the collected information. A first message is transmitted to the mobile phone based on the collected information comprising configuration information operative to configure the mobile phone. A second message is transmitted to the mobile phone providing an address of the personal home page once the mobile phone is configured. When a request comprising the address for the personal home page is received from the configured mobile phone, the personal home page is transmitted to the configured mobile phone such that when the configured mobile phone receives the home page, the configured mobile phone displays the home page.

Lankins discloses a system for utilizing the Internet to request a subscription to radiotelephone service or to change a current radiotelephone service subscription over the Internet. A potential radiotelephone service subscriber logs on to a world wide web server using an internet access device. The potential subscriber is presented with a plurality of selectable radiotelephone services and features. The potential subscriber then provides the billing system with credit information that is validated through the credit validation system. A radiotelephone service profile is stored in the home location register after the subscription process has been completed. The subscriber is then instructed to power up the radiotelephone that then registers with the system. An over-the-air activation function collects data from the billing system and an authentication center and sends the data to the mobile switching center that then transmits it through the base station to the radiotelephone. The radiotelephone reprograms its own registers with the appropriate data.

Duncan discloses System for sending text message alerts to users of mobile communications devices. Text message contains only summary information and a user can access further information by downloading a personalized response web page which contains links directly to relevant further information. Response web page may be provided by HTML, WAP, iMODE or related technologies. Links followed may be monitored to provide marketing leads.

Neither Larkins nor Duncan discloses generating a personal home page for a specific mobile phone user using collected phone information and user preferences. Rather, Larkins discloses a single web site (see e.g. Larkin, FIG. 3-7) that allows a subscriber to log on and create or update a mobile phone profile. Neither Larkins or Duncan disclose transmitting a message to a mobile phone providing an address of a personal home page prepared using information associated with the mobile phone and the preferences of the phone's user once the mobile phone is configured.

Claims 7 and 8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Larkins in view of Duncan and in further view of Hall. Applicant respectfully traverses.

Claims 7 and 8 are dependant claims of Claim 1 which was summarized above. Claim 1 is distinguishable over the cited combination of Larkins, Duncan, and Hall. Neither Larkins nor Duncan nor Hall disclose generating a personal home page for a specific mobile phone user using collected phone information and user preferences. Rather, Larkins and Hall disclose a single web site (see, e.g. Larkin, FIG. 3-7) that allows a subscriber to log on and create or update a mobile phone profile. Neither Larkins nor Duncan nor Hall disclose transmitting a message to a mobile phone providing an address of a personal home page prepared using information associated with the mobile phone and the preferences of the phone's user once the mobile phone is configured.

Claim 6 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Hall, in view of Larkins. Applicant respectfully traverses.

Claim 6 is a dependent claim of Claim 5 which was summarized above. Claim 5 is distinguishable over the cited combination of Hall and Larkins. Neither Hall nor Larkins disclose a web page displaying a mobile phone's configuration information which reflects changes to the phone's configuration initiated on the phone itself.

It is well established that, in order to show obviousness, all limitations must be taught by the prior art. In Re Royka, 180 U.S.P.Q. 580, 490 F.2d 981 (CCPA 1974); MPEP § 2143.03. It is error to ignore specific limitations distinguishing over the references. In Re Boe, 184 U.S.P.Q. 38, 505 F.2d 1297 (CCPA 1974); In Re Saether, 181 U.S.P.Q. 36, 492 F.2d 849 (CCPA 1974);

In Re Glass, 176 U.S.P.Q. 489, 472 F.2d 1388 (CCPA 1973). Since, as argued above, Claims 1, 2, 3, 6, 7, 8 and 9 contain limitations not taught by the cited references, the claims are patentable over the cited references.

Furthermore, a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. KSR Int'l Co. v. Teleflex, 127 S.Ct 1727, 1741 (2007). As former Chief Judge Markey of the Federal Circuit has stated, "virtually all inventions are 'combinations', and ... every invention is formed of 'old elements' .... Only God works from nothing. Man must work with old elements." H.T. Markey, *Why Not the Statute?* 65 J. Pat. Off. Soc'y 331, 333-334 (1983). The factfinder should be aware of the distortion caused by hindsight bias and must be cautious of arguments reliant upon ex post reasoning. KSR Int'l Co. v. Teleflex, 127 S.Ct at 1742.

In determining whether a claimed invention is an obvious combination of prior art references, it must be shown that there is an apparent reason to combine the known elements in the fashion claimed. Id. at 1741. To facilitate review, this analysis should be made explicit. Id. The Examiner has not advanced a sufficient rationale as to why a person skilled in the art would have been motivated to combine Larkins, Duncan and Hall in the manner described in the present Office Action.

For all of the above reasons, Applicant respectfully requests that the rejections of Claims 1, 2, 3, 6, 7, 8 and 9 under 35 U.S.C. 103(a) must be withdrawn.

#### **IV. Conclusion**

Having responded to all objections and rejections set forth in the outstanding Office Action, it is submitted that claims 1-12 are in condition for allowance and Notice to that effect is respectfully solicited. In the event that the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, the Examiner is courteously requested to contact applicant's undersigned representative.

The Commissioner is authorized to charge any additional fees associated with this filing, or credit any overpayment, to Deposit Account No. 50-0653. If an extension of time is required, this should be considered a petition therefor.

Respectfully submitted,

/Richard E. Kurtz/Reg. #33936

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Richard E. Kurtz, II  
Reg. No. 33,936  
Attorney for Applicant

GREENBERG TRAURIG  
1750 Tyson's Boulevard  
Suite 1200  
McLean, VA 22102  
(703) 749-1330  
E-mail: kurtzr@gtlaw.com

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